

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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CARLOS PIEDRA, *individually and on behalf
of all other employees similarly situated,*

Plaintiffs,

-against-

ECUA RESTAURANT, INC. d/b/a “La Bamba
Restaurant,” BLANCA O GUALLPA, a/k/a
“Blanca Chauca,” LOUIS PEREZ, and DAVID
SIGCHA,

MEMORANDUM & ORDER

17-CV-3316 (PKC) (CLP)

Respondents.

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PAMELA K. CHEN, United States District Judge:

On January 31, 2018, Magistrate Judge Cheryl L. Pollak issued a Report and Recommendation (Dkt. 23), in which she recommended that Plaintiff be awarded a total of \$140,122.63 in damages (*id.* at 44). This Court respectfully modifies the exceedingly thorough Report and Recommendation (“Report”) and awards Plaintiff a total of \$242,303.89 in damages.

STANDARD OF REVIEW

A court may accept, reject, or modify, in whole or in part, the findings or recommendations made by a magistrate judge. *See Fed. R. Civ. P. 72(b)(3); Grassia v. Scully*, 892 F.2d 16, 19 (2d Cir. 1989). A court may accept those portions of a report to which no specific, written objection is made, as long as the factual and legal bases supporting the findings are not clearly erroneous. *See Ramirez v. United States*, 898 F.Supp.2d 659, 663 (S.D.N.Y. 2012). No objections have been filed in this case.

DISCUSSION

The Court modifies the Report as follows:

Table 1: Piedra's Modified Overtime Wages¹

Period	Hourly Wage Rate Paid	Overtime Wage Rate	Hours of Overtime Per Week	Number of Weeks in Period	Overtime Owed for the Period
11/9/15-5/9/16	\$20.00	\$30.00	48	26	\$37,440.00
5/10/16-1/31/17	\$22.50	\$33.75	48	38	\$61,560.00
2/1/17-5/9/17	\$13.00	\$19.50	18	14	\$4,641.00
Total Overtime Owed:					<u>\$103,641.00</u>

Table 2a: Piedra's Modified Spread of Hours Wages²

Period	NYLL Min. Wage	No. of Days Worked Over 10 Hours	No. of Weeks in Period	Total SOH Owed for Period
11/9/15-12/30/15	\$8.75	6	7.4	\$388.50
12/31/15-12/30/16	\$9.00	6	52	\$2,808.00
12/31/16-1/31/17	\$9.70	6	4.6	\$267.72
2/1/17-5/9/17	\$9.70	2	14	\$271.60
Total Spread of Hours Pay Owed:				<u>\$3,735.82</u>

Modified Total Damages Owed to Plaintiff³

Claim	Amount Owed to Plaintiff Piedra
Unpaid Overtime	\$103,641.00
Unpaid Spread of Hours	\$3,735.82
Wage Notice Damages	\$5,000.00
Wage Statement Damages	\$5,000.00
Liquidated Damages	\$107,376.82
Pre-Judgment Interest	\$14,350.25
Attorney's Fees	\$2,800.00
Costs	\$400.00
Total	<u>\$242,303.89</u>

¹ See Dkt. 23 at 28 for the Report's calculation.

² See *id.* at 29 for the Report's calculation.

³ See *id.* at 44 for the Report's calculation.

CONCLUSION

The Court has reviewed the Report and adopts the Recommendations with the exception of the modifications described above. Accordingly, it is hereby ORDERED that Plaintiff is awarded \$242,303.89 in damages. The Clerk of Court is respectfully requested to enter judgment and close the case accordingly.

SO ORDERED.

/s/ Pamela K. Chen

Pamela K. Chen
United States District Judge

Dated: February 28, 2018
Brooklyn, New York